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OFFICE OF PETITIONS

In re Application of	:	
WEBB	:	
Application No.: 10/707,314	:	DECISION ON PETITION
Filing Date: December 4, 2003	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: GENSP009C1	:	

This is a decision on the petition under 37 CFR 1.181 to withdraw a holding of abandonment and the conditional petition under 37 CFR 1.137(b), filed April 17, 2007, to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed October 16, 2006, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on January 17, 2007.

Although applicant submitted an authorization to charge the issue fee to Deposit Account No. 50-0388 on 13 November 2006, insufficient funds remained in the deposit account at the time the Office attempted to charge the requisite fee.

The petition states that the deposit account funds were replenished on the date the charge was attempted. However, 37 CFR 1.25(a) states in relevant part, "An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted." A review of the deposit account record filed with the petition confirms that applicant's deposit account did not contain an amount sufficient to cover the requisite fee at the time the charge was attempted. Thus, the Notice of Abandonment mailed February 19, 2007 was proper.

The petition under 37 CFR 1.137(b) satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the payment of the issue fee and publication fee is accepted as having been unintentionally delayed.

With further regard to the statement in the petition that "the entire delay in paying the issue fee in the above-identified application from the date that such payment was due until the filing of this paper was entirely unintentional", this statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

The 37 CFR 1.137(b) petition fee of \$1500.00 will be charged to Deposit Account No. 50-0388

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.



Bryan Lin
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Office of the Deputy Commissioner
for Patent Examination Policy